

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

AMEREN TRANSMISSION COMPANY OF ILLINOIS)	
)	
Petition for a Certificate of Public Convenience and)	
Necessity, pursuant to Section 8-406.1 of the Illinois)	
Public Utilities Act, and an Order pursuant to Section 8-)	Docket No. 12-0598
503 of the Public Utilities Act, to Construct, Operate and)	
Maintain a New High Voltage Electric Service Line and)	
Related Facilities in the Counties of Adams, Brown, Cass,)	
Champaign, Christian, Clark, Coles, Edgar, Fulton,)	
Macon, Montgomery, Morgan, Moultrie, Pike, Sangamon,)	
Schuyler, Scott and Shelby, Illinois.)	

**REPLY IN SUPPORT OF THE JOINT MOTION TO FILE AND ADMIT A
STIPULATION BETWEEN AMEREN TRANSMISSION COMPANY OF ILLINOIS
AND FUTUREGEN INDUSTRIAL ALLIANCE, INC.**

Ameren Transmission Company of Illinois (ATXI), respectfully submit this Reply in Support of the Joint Motion (Motion) to File and Admit a Stipulation (Stipulation). This Reply is directed at the Morgan, Sangamon and Scott Counties Land Preservation Group (MSSCLPG) Response to the Joint Motion to File and Admit a Stipulation (Response), which seeks to deny the admission of the Motion or to treat such Motion as an amendment to the Petition filed in this docket (Petition) and set aside the current Case Management Order (CMO).

The arguments raised by MSSCLPG in its Response are, for the most part, identical to the arguments raised in MSSCLPG's Response to Joint Motion to File and Admit a Stipulation Between Ameren Transmission Company of Illinois and the Morgan and Sangamon Counties Landowners and Tenant Farmers, filed before the Commission on March 19, 2013. As such, the arguments raised in this Joint Motion are, for the most part, identical to those made by ATXI in its Reply to MSSCLPG's previous motion.

ATXI recognizes the ALJ ruling of April 12, 2013, in which the ALJs stated that the admissibility of stipulations would be addressed at hearing. ATXI files this Reply in the interest of administrative efficiency to memorialize its position.

First, as argued in response to MSSCLPG's previous Response, there is nothing fundamentally wrong with parties reaching agreement or settlement on contested issues. Indeed, such actions are strongly encouraged by the courts and this Commission. In what can only be interpreted as an attempt to advance its own cause by attempting to thwart the efforts of other parties to come to an agreement, MSSCLPG brings to the Commission a collection of mangled suppositions. But nothing in the Response identifies any procedural shortcomings with the Stipulation or substantively addresses why, as an evidentiary matter, the Stipulation should not be admitted into the evidentiary record. Instead, MSSCLPG argues that it (1) amends the Petition such that the schedule should be reset, and (2) in so doing, has somehow caught potential interveners unawares. These arguments should be rejected.

MSSCLPG's discussion appears to be based on a fundamental misunderstanding of the Stipulation. MSSCLPG contends that ATXI is "in essence" amending its original Petition by "substituting as its Primary Route a portion of what had been identified as the Alternate Route, between Meredosia and Pawnee, Illinois." (Response ¶ 2.) But the Stipulation is not an amendment to ATXI's Petition. In accordance with Section 8-406.1 of the Public Utilities Act, ATXI proposed a Primary and Alternate right of way for the transmission line, including the portion of the route between Meredosia and Pawnee, Illinois. 220 ILCS 5/8-406.1(1)(B)(viii). ATXI's Petition remains unchanged in this regard. The Stipulation does not amend the Petition, but rather it resolves and narrows certain issues raised in this proceeding by the agreement of two parties, ATXI and FutureGen, to support the Alternate Route between Meredosia and Pawnee,

Illinois for the Commission's approval. As both the direct testimony offered in support of the Petition and the Stipulation itself made clear, both the Primary and Alternate Routes are permissible and constructable – in other words, both are viable route options. (See generally ATXI Pet. ¶ 10; ATXI Ex. 4.0, p. 8; Stipulation ATXI and FutureGen ¶ 5.) As explained in the Stipulation, however, ATXI has stipulated to the Alternate Route from Meredosia to Pawnee in order to resolve certain issues between itself and other parties to this proceeding. This is not an amendment of ATXI's Petition. Otherwise, following MSSCLPG's logic, the ALJs would be required to reset the schedule every time a route other than the Primary Route could potentially be adopted by the Commission. Such an interpretation would not only unreasonably delay the proceeding, but would render the entire proceeding of selecting the best route based on the concerns of all parties and interveners impossible.

Further, the folly of MSSCLPG's logic is illustrated by the ALJs' ruling instructing landowners in the study area or affected by the proposed routes to propose additional alternate routes. (Pre-Trial Conference Tr., p. 40 (Dec. 3, 2012).) If ATXI finds merit in an interveners' alternate route, is it barred from supporting the route via a stipulation with that party? Surely the ALJs did not intend that to be the case.

MSSCLPG's request to reset the case schedule also ignores the circumstances resulting in the ALJ's determination to "consider the ATXI petition to have been completely filed only as of January 7, 2013." (Notice, p. 1 (Jan. 16, 2013).) The ALJ's reset the case schedule following a Motion filed by ATXI because certain landowners had been inadvertently omitted from the landowner notice list – in other words because certain landowners had (inadvertently) not yet received notice of the proceeding. This concern is not present with the Stipulation, as landowners along both the Primary and Alternate Route between Meredosia and Pawnee have

received notice of the proceeding, and are aware that their land may be impacted by the selection of either the Primary or Alternate Route. Therefore, MSSCLPG's request to reset the schedule should be rejected.

MSSCLPG argues that acceptance of the Stipulation "would be unfair and prejudicial to [unspecified] potential parties who might have reviewed this matter and reached a decision to take no action based upon the allegations as to the Primary Route" (Response ¶ 3.) This argument is unfounded. A "well-informed" potential intervener would be unlikely to reach such a conclusion. First, ATXI has clearly stated in testimony that its position is that both the Primary and Alternate Routes are permissible and can be constructed. (ATXI Ex. 4.0, pp. 8-9.) Secondly, landowners along the Meredosia to Pawnee portion of the route have received notice from the Commission Clerk that states "you are receiving this notice because the Commission has been informed that you have an interest in property affected by one or more" of the routes proposed in this proceeding. (See e.g. Notice and Notice of Continuance of Hearing, p. 1 (Jan. 31, 2013). Third, the ALJs stated in the initial pre-trial conference on December 3, 2012, that any person who wished to contest any of ATXI's routes (either the Primary or Alternate) "need to actually intervene in this case, and . . . must do so pursuant to 83 Ill. Admn. Code Part 200." (Pre-Trial Conference Tr., p. 36.) Further, the ALJs stated that it is not enough to simply oppose a route; rather a party must propose an alternate route, with specificity, and identify any other landowners potentially affected by such alternate route. (Pre-Trial Conference Tr., p. 40.) The ALJs' directive was not limited to ATXI's Primary Route. This language makes clear to a party with a concern about any route, whether Primary or Alternate or intervener-proposed, should not simply "sit on the sidelines." And many "well-informed" landowners have followed the ALJs' advice and intervened to oppose not only ATXI's Primary Route, but also ATXI's Alternate

Route and routes proposed by other interveners. Further, the Commission has the authority to approve a final route that is not the utility's proposed primary or alternate route, and has done so in the past. See generally, Dockets 06-0179 and 06-0706. In sum, these factors indicate that a landowner along any route, Primary, Alternate or intervener route, have ample notice that their land may be affected in this proceeding, and that they should take steps to contest that route, if they oppose it. Therefore, MSSCPG's claim that landowners have not been advised that their rights will be affected, is simply not true.

Finally, MSSCLPG's lengthy quotation from the Direct Testimony of Mr. Greg Rockrohr is misleading. Mr. Rockrohr notes that "more time for discovery and development of alternative route proposals might have led to different proposals and conclusions that are not included in the record of evidence." (Staff Ex. 1.0, pp. 54-55, ll. 1137-1144.) However, the Stipulation concerns a route that has *already* been proposed and are fully within the record of evidence, and the purpose of the Stipulation is to resolve and narrow the range of issues in this proceeding. As such, MSSCLPG's reliance on this statement is inapposite.

For the above reasons, the Response should be denied and the Stipulation should be properly entered into the evidentiary record.

Dated: April 17, 2013

Respectfully submitted,

Ameren Transmission Company of Illinois

/s/ Albert D. Sturtevant

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CERTIFICATE OF SERVICE

I, Albert D. Sturtevant, an attorney, certify that on April 17, 2013, I caused a copy of the foregoing *Reply in Support of Motion for Leave to File Stipulation* to be served by electronic mail to the individuals on the Commission's Service List for Docket 12-0598.

/s/ Albert D. Sturtevant

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